

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q64971

Ludo GYS

Appln. No.: 09/891,264

Group Art Unit: 2152

Confirmation No.: 1632

Examiner: Dohm CHANKONG

Filed: June 27, 2001

For: **METHOD OF SERVICE PROVISION IN A COMMUNICATIONS NETWORK
AND FURTHERMORE PROGRAM MODULES AND MEANS THEREFOR**

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated March 8, 2006. Entry of this Reply Brief is respectfully requested.

ARGUMENT

According to the present invention, a first server SSV transmits to a service computer SSC a first service container CONT1 containing a service machine SM1. The service computer SSC executes the service machine SM1 to manage the execution of a personal service for the communications terminal TERA. The personal service itself come from a service component CP1 which is sent to the service computer SSC from the server SSV (in either the same or a different service container from the first service container containing the service machine SM1) and is either executed by the service machine or is a function called by the service machine. The service computer SSC provides a network lock NWL for the first service container CONT1 which offers to the first service container CONT1 a predefined interface to the communication network NET for the provision of the personal service to the communications terminal TERA.

The prior art relied on by the examiner does not teach what is disclosed and claimed, and is not directed to the same problem, other than in a generic similarity as to the desire to provide services to users. The examiner reads the claim language unreasonably broadly in an attempt to force it to fit the prior art, and even to do this it is necessary to rely on hindsight to combine selected parts of the teachings of the two references with no direction to do so other than in the present claims themselves. The result is confusion, but in this context it must be kept in mind that it is the examiner who has the burden of presenting a prima facie case of obviousness.

Yates describes a system for offering services to a user. Yates provides a plurality of agents which cooperate to provide services to the user, and at least one of the agents is

reconfigurable by selecting different combinations of reusable software modules. The software modules operate in accordance with software policies, which may be either internal or external to the modules. As discussed at lines 41-47 of column 17, it is preferable that at least some be external, to be loaded at run time.

The examiner has now alleged that the terminal agent of Yates corresponds to the claimed service computer (see page 14 of Examiners' Answer), and that the modules of Yates are analogous to the service containers of the present invention (Examiners' Answer, page 14). To satisfy the claimed requirements for a container, the software module would have to be sent from a server to the terminal agent. The examiner has also alleged that the policies of Yates correspond to the claimed service component (Examiners' Answer, page 15). To satisfy the claimed requirements for a service component, the policies would have to be sent to the terminal agent either in the same container as the module, or in a different container. The only container identified by the examiner in Yates is a software "module," so the analysis can proceed from this point considering only those instances in which the policies are not externally loaded but are contained within the modules when a module is transferred to the terminal agent.

The first aspect of claim 1 to consider is a service server for sending to a service computer a container containing a service machine and a service component, with the service computer executing the service machine and the service machine executing or calling the service component in order to provide the service to the user. For the claimed service "container" the examiner refers to a "module" in the prior art. The container of the present invention is just that, i.e., it contains a software machine and a service component. The "module" of Yates does not

contain anything, but is itself a building block of executable code. Having already relied on the module as the claimed container, the examiner has nothing to correspond to the claimed service machine that is supposed to be “contained” within the container. With nothing to point to as corresponding to the claimed service machines, the examiner returns to the Yates “module” and recycles this to now correspond to both the container and the contained. The fact of the matter is that there is nothing in Yates which corresponds to a container. The modules are executable code portions and a combination of modules may comprise an executable service machine, but no module is a “container” of anything.

Again drawing a blank, the examiner has not identified anything in Yates which can be considered the claimed service server. The examiner acknowledges that Yates does not teach such a server (Examiner’s Answer, page 15), but argues that such a server is implicit in the fact that the modules are made available to the agents. But the service server is described as sending containers to the service computer, with the containers containing service machines and service components, and this is not implicit in simply making modules available to the agents.

Finally, at page 15 of the Answer, the examiner discusses the last limitation of claim 1, and argues that the Office’s interpretation is that the service container is responsible for obtaining and executing the service component, the service component providing the actual functionality of the service. As an aside, it is noted that the claims say nothing about the service container being responsible for obtaining and executing a service component. Claim 1 simply states that the service component is sent to the service computer either in the same container as the service machine or in a different container. But importantly, the examiner has not identified

a container used to send a policy to the terminal agent. Some policies may arrive as part of executable code modules, but not in a container and not from a service server.

As to reliance on Beck, that reference may well teach the downloading of service code for implementing a service when a user request the service, but it does not discuss containers, does not discuss service machines and service components contained therein. So the combination of the cited references may have taught the artisan to download executable code needed to provide a service, but this is what is already taught at least implicitly by Yates' obtaining of modules when needed to reconfigure a terminal. The combination of the references would still not teach the sending of containers from a service server to a service computer containing both service machines and service components as well as network locks, etc.

For the above reasons, and for the reasons set forth in detail in the Appeal Brief regarding the deficiencies in the teachings of the references and the unobviousness of combining them in the particular manner proposed by the examiner, it is submitted that the rejection of claim is not supportable. The other independent claims distinguish over the prior art for the same reasons.

As to the dependent claims, they patentably distinguish over the prior art due to their dependence on allowable claims, but certain additional distinctions are apparent.

As to claim 2, the examiner notes that notifications are sent between objects, but claim 2 does not simply recite notifications, it describes the first service container informing the service server (from which the container was sent to the service computer) of a condition of the service computer. The examiner has not even identified a service server in Yates, and it is certainly not

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possible to point to anything in Yates which causes the terminal agent to send back to this phantom "server" a notification of a condition of the terminal agent.

As to claim 4, the examiner cites to lines 41-61 of column 25 as allegedly teaching the terminal sending a request for the provided service to the service server. The cited portion of Yates describes the terminal agent requesting the service to be provided from the Access agent to the terminal. This communication is neither from the terminal nor to the service server as required by claim 4.

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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